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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,243	06/07/2002	Eiji Tsuru	112410	4534

7590

04/13/2004

Oliff & Berridge  
PO Box 19928  
Alexandria, VA 22320

EXAMINER
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STORMER, RUSSELL D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/089,243

Applicant(s)

TSURU, EIJI

Examiner

Russell D. Stormer

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,6,7 and 9-25 is/are pending in the application.
- 4a) Of the above claim(s) 11-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

***Election/Restrictions***

1. Applicant's arguments and traverse of the May 21, 2003 restriction requirement in the latest response filed January 28, 2004 is acknowledged. The traversal is on the grounds that the restriction does not comply with PCT Rules 13.1 and 13.2.

This argument was not presented at the time of the election/traversal. Arguments presented at that time have been answered and the restriction requirement made final. New arguments will not be entertained at this time.

The requirement is still deemed proper.

2. This application contains claims 11-25 drawn to an invention nonelected with traverse in the Paper filed June 19, 2003. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Information Disclosure Statement***

3. The information disclosure statement filed October 22, 2002 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance of the single page of the reference GB 2330810. This document is not listed on the PTO-1449. It has been placed in the application file, but the information referred to therein has not been considered.

Applicant's arguments on pages 7 and 8 of the response filed January 28, 2004 are not understood. The references EP 1116644A1 and DE 19844309A1 have been considered as shown on the 1449 received October 22, 2002.

Applicant has not addressed the problem of the GB 2330810 reference which was not considered.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 6, 7, 9, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the term "behind" is considered to be indefinite and incorrect. As seen in figure 9, the ends of the cords can be considered to be above or below the lugs or protrusions, but "behind" does not appear to be a proper description of the structure.

In any event, the term "behind" (as well as above and below) is indefinite because it is a term of orientation and no reference point or direction has been set forth in the claim which would provide a basis for the use of the term "behind."

***Allowable Subject Matter***

6. Claims 1, 6, 7, 9, and 10 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, second paragraph, set forth in this Office action.

***Response to Arguments***

7. Applicant's arguments filed January 28, 2004 have been fully considered but the application is not in condition for allowance due to the new rejection and the presence of non-elected claims.

The argument that the term "substantially" in claim 6 is definite and that the objection should be withdrawn is misleading and should be retracted and corrected. The term "substantially" was not present in the original claim 6 and was not objected to as inferred by Applicant's remarks. Instead, it was added during the instant amendment in response to an objection of the term "most" in claim 6. The Examiner knows full well that the term "substantially" is now considered to be definite in most instances. Applicant's comments suggest that an improper rejection was made in the first office action.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Paul reference is cited at Applicant's request to show the well-known feature of a bias sheet.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (703) 308-3768. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

4/7/04

  
RUSSELL D. STORMER  
PRIMARY EXAMINER 4/7/04